

Prudence Island Water District

Minutes of meeting: September 30, 2006

Meeting was called to order at 1:00 p.m. Present were David Buffum, moderator; Patricia Richard, clerk; Phillip Brooks and Robert Hanson. Absent was Richard Brooks.

Approval of minutes: Motion by Phillip Brooks to approve the minutes of September 16, 2006, seconded by Mr. Hanson, approved unanimously.

Administrative: Ms. Richard presented a \$2000 check for payment of insurance premium to RI Interlocal Risk Mgt. Trust to be countersigned by the David Buffum acting as treasurer. The check was countersigned.

Ms. Richard presented a check for \$3135 for payment of legal services to Hinckley, Allen & Snyder to be countersigned by David Buffum, acting as treasurer. The check was countersigned.

Ms. Richard reported that the district's fiscal year for 2006 closed today, Sept. 30 2006. She said that the operating fund balance was now \$5460.48 and that the district is now broke. She said that the annual review will cost \$3000, that another \$1000 would be spent on the annual statement to the electors, that an election would need to be held in 2007 and that an open invoice for legal fees was expected.

She said that she would be forwarding the financials to CPA Steve Muscatelli for review.

Ms. Richard asked that discussion of the annual calendar be tabled until the next board meeting.

Technical: Phillip Brooks said that well monitoring would be taking place on the weekend of October 14. Robert Marshall, who has been assisting Mr. Brooks with the monitoring, said that he would not be available that weekend. Mr. Buffum said that he would assist Mr. Brooks. Mr. Buffum asked if the well monitoring was showing any trends. Mr. Brooks reported that water levels were down approximately 4 feet since spring. Mr. Marshall said that was normal over the course of the year.

Funding: Ms. Richard reported receiving a letter USDA approving the funding for the environmental and pre-development engineering report. She said that issues were still outstanding for both reports. The engineering report recommended 2 technologies and a pilot study would need to be done before a decision was taken which technology was most suitable. In the environmental report, a soil survey map needed to be included, the proposed site would need to be further evaluated for Native American artifacts and CRMC had to be presented with information regarding the site to clear up any issues of jurisdiction. She presented Mr. Buffum, acting as moderator, with a request for advance or reimbursement form for his

signature. She said that she would also be including the engineer's invoice and would be making arrangement with the bank for transfer of funds.

Ms. Richard reported having spoken to the Portsmouth Finance office regarding expense reporting and requested documentation from the state auditor so that she would know exactly what information was necessary. She said that the state auditor had stated that PIWD had not reported any of their expenditures. She said that she had reported these expenditures to the town and had documentation in both district meeting minutes and copies of the reports sent to the town. She said that she contacted Linda at the finance office again and that Linda checked the files and found none of the expense reports. Linda said that she would investigate the matter. Ms. Richard contacted the finance office again and was informed that the expense reports had been found and sent on to the state auditor. Ms. Richard asked Linda to write a letter to the district memorializing the fact that the town had misplaced the file and that the district was not at fault for the lack of information available to the state auditor. She said that the perception that the district was at fault could affect the ability to get public funding. She said that Linda told her that she was too busy to write such a letter but would do so next week. Ms. Greene said that the board should write a letter to the town and to the state auditor documenting that the district was not at fault.

Correspondence: Ms. Richard reported receiving a hand-delivered

letter on Friday afternoon with a request that it be read to the board.

The letter read:

Nathaniel C. Bacon

081 Sunset Hill Ave.

Prudence Island, RI

September 26, 2006

Patricia Richard, Clerk

PI Water District Board

Dear Patty,

The owners of properties 76-24, 76-6, Bacon Family Trust; 76-6A Barbara Little; 76-6B Ann Ballard; 78-79 Wm. Bacon, Jr. respectfully ask the Board to initiate a request to our State Representative, Raymond Gallison to enter legislation removing said properties from the district.

When the future Water District was presented to the Town Administrator & Town Council, it was represented as being in the same footprint as the current water company. These properties are not in the footprint. They have never received any water services, nor will they seek any in the future.

Yours truly,

/s/ Nate Bacon

Representing Bacon Family Trust

Cc: Ray Gallison, Bob Driscoll, Gary Crosby

Mr. Philip Brooks observed that much of the watershed was located on the properties mentioned and that the watershed had to be protected. Ms. Richard said that being part of the water district would not protect the watershed on those properties. Mr. Harry Sterling asked if the assertion about the boundaries having been represented as within the footprint of the current water system was historically accurate. Ms. Richard said that she could not speak to that issue and asked Mr. Robert Marshall, a member of the district organizing committee, to comment on the issue. Mr. Marshall said that it was easier to draw lines on existing roads than it would have been to draw the boundaries of the district around specific properties. He said that the problem was that the tracts were so large that they ran all the way across the island. He said that the farm itself 76-24 was not included in the district. He said that lots 76-6 and 76-A were all west of Sunset Hill and the majority of the tracts could be removed with a subdivision. The majority of 76-B would be out if it were subdivided. Lot 78-79 lies solidly within the district boundaries. Mr. Marshall further stated that the definition of the boundaries was clear and discussed at every public meeting. He said that no reference was ever made to the footprint of the current system because no definition of

the service area ever existed and that the water company could provide service to any location on the island. He said the boundaries of the district specifically excluded some water company customers (north end). Ms. Richard said that the legislation was introduced in 2003 and not passed until April of 2004 which gave property owners more than a year to voice their concerns. She said that with the exception of Lot 78-79, the property owners had a remedy. Mr. Harry Sterling said that it was not the responsibility of the district to seek remedies for individual land owners. He asked if these owners would be harmed by remaining within the water district. Ms. Richard said that the landowners believed they could be harmed. Mr. Sterling said that this belief might be a result of misinformation. Ms. Richard said that she had a dialog with Mr. Bacon and pointed out that the district did not have the powers ascribed to it by Mr. Crosby, and that she believed the major concern was the possibility of district taxes. Mr. Marshall said that he did not believe that it would be in the best interest of the district to allow a revision of the district boundaries, nor is it the responsibility of the district board to facilitate any remedy. Mr. Buffum said that he saw no reason to change the district boundaries. He said that he found it very disturbing that the landowners in question had never attended any district board meeting and that for the town to encourage the mistaken belief that the district sought to infringe on their rights was inappropriate. He said a letter should be drafted to Mr. Bacon saying that the board would not seek to change the district boundaries. Mr. Brooks agreed. Mr. Hanson said that the board has never entertained the idea of a

district tax and that if the landowners had attended any board meetings they would have known that. Ms. Richard said that she would draft a letter saying that the board would not facilitate any revision of the charter and present it to the board for approval at the next meeting.

Draft of letter to Portsmouth town officials Gary Crosby and Robert Driscoll regarding their roles in a proposed district charter revision.

Ms. Richard said that she sent notice and agenda informing Mr. Driscoll and Mr. Crosby that this issue would be addressed at this meeting. She said that she had received a response from Mr. Crosby saying that he would like to attend the meeting but was going on vacation and wanted to have a copy of the minutes. She wrote back to Mr. Crosby saying that the approved minutes would be posted on the secretary of state web site and on the district web site.

Ms. Richard read the text of the proposed letter to the board:

September 30, 2006

Dear Mr. (Crosby, Driscoll)

It has come the attention of the district board that you have been making inquiries at the state legislative level regarding the viability of

having the water district boundaries redrawn, to the perceived advantage of some large landowner(s) on Prudence Island. Apparently, these landowners believe that the water district seeks to limit their right to develop their property.

The board is puzzled as to why you have not advised the landowner(s) in question that in reality, the district has no power to limit their rights to develop their property as they see fit. As you must know, the State of Rhode Island adheres to the “English Rule”, giving landowners absolute dominion over their property, unless what they do on it contravenes federal or state laws, or town ordinances and zoning regulations. The district board has always recognized that the authority to set the parameters for development on Prudence Island lies with the Town of Portsmouth. The board has no plans to challenge that authority, although we might occasionally disagree with the town’s definition of “responsible development”. It is both our right and our duty to maintain an open dialog about our concerns regarding groundwater issues on Prudence Island. This being so, we feel that your interpretation of that concern as being a “shut the door to development” agenda is reactionary, and that to encourage this perception among the island’s property owners is inappropriate.

Furthermore, the district board deeply resents the fact that you used your position as a town official to interfere in an issue that is, quite frankly, none of your affair. As a public body, the district board is prepared to discuss the issue of the district boundaries with any

district landowner at any time. For you to make inquiries at the state legislative level without apprising us of your intentions in this matter is wholly unacceptable. In future, we expect that any water district issues on which you feel the need to take action will be brought directly to the district's board of directors.

Sincerely,

**Patricia Richard,
Clerk of the Board
Prudence Island Water District**

**Cc: Gilstein, Edwards, Seveney, Canario, Honnen, Katzman, McIntyre,
West, Gallison, Levesque**

Mr. Sterling asked if it would be appropriate to post the letter publicly on the island. Mr. Buffum said that he did not believe the letter needed to be posted. Ms. Richard said that it was official correspondence from a public entity to a town official and was not suitable for posting on a bulletin board. She said that the reason that the letter was read at the meeting was to make it part of the official record and that anyone could request a copy of the approved minutes. Mr. Buffum moved that the board accept the letter as written and direct the clerk to send it to the appropriate parties. Motion

seconded by Mr. Brooks, approved unanimously.

Correspondence from Aquidneck Island Planning Commission inviting the district to participate in a luncheon meeting regarding water resources. Mr. Brooks said that he would be interested in attending

Other business: No other business.

Meeting adjourned at 1:50 p.m.

Patricia Richard, Clerk